



**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284, among others.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), and 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b). On information and belief, Microsoft is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, has purposely transacted business in this judicial district, and/or has regular and established places of business in this judicial district.

6. On information and belief, Microsoft is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

**COUNT I**

(INFRINGEMENT OF U.S. PATENT NO. 7,218,923)

7. CCE incorporates paragraphs 1 through 6 herein by reference.

8. CCE is the assignee of the '8923 patent, entitled "Control of Terminal Applications in a Network Environment," with ownership of all substantial rights in the '8923 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringements. A true and correct copy of the '8923 patent is attached as Exhibit A.

9. The '8923 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

10. Microsoft has directly infringed and continues to directly infringe one or more claims of the '8923 patent in this judicial district and elsewhere in Texas and the United States, including at least apparatus claims 24 and 26, by, among other things, making, using, offering for sale, selling and/or importing Microsoft mobile devices, including, for example, the Surface RT and Surface Pro.

11. CCE has been damaged as a result of Microsoft's infringing conduct described in this Count. Microsoft is, thus, liable to CCE in an amount that adequately compensates CCE for Microsoft's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

### **JURY DEMAND**

CCE hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

### **PRAYER FOR RELIEF**

CCE requests that the Court find in its favor and against Microsoft, and that the Court grant CCE the following relief:

- a. Judgment that one or more claims of the '8923 patent have been infringed, either literally and/or under the doctrine of equivalents, by Microsoft;
- b. Judgment that Microsoft account for and pay to CCE all damages to and costs incurred by CCE because of Microsoft's infringing activities and other conduct complained of herein;
- c. Judgment that Microsoft account for and pay to CCE a reasonable, ongoing, post-judgment royalty because of Microsoft's infringing activities and other conduct complained of herein;
- d. That CCE be granted pre-judgment and post-judgment interest on the damages caused by Microsoft's infringing activities and other conduct complained of herein; and
- e. That CCE be granted such other and further relief as the Court may deem just and proper under the circumstances.

**Dated: October 1, 2013**

Respectfully submitted,

/s/ Edward R. Nelson, III by permission T. John Ward,  
Jr. \_\_\_\_\_

Edward R. Nelson, III  
enelson@nbclaw.net  
Texas State Bar No. 00797142  
Brent N. Bumgardner  
bbumgardner@nbclaw.net  
Texas State Bar No. 00795272  
Barry J. Bumgardner  
barry@nbclaw.net  
Texas State Bar No. 00793424  
S. Brannon Latimer  
blatimer@nbclaw.net  
Texas State Bar No. 24060137  
Thomas C. Cecil  
tcecil@nbclaw.net  
Texas State Bar No. 24069489  
Michael J. Fagan, Jr.  
mfagan@nbclaw.net  
Louisiana State Bar No. 33821  
NELSON BUMGARDNER CASTO, P.C.  
3131 West 7<sup>th</sup> Street, Suite 300  
Fort Worth, Texas 76107  
Phone: (817) 377-9111  
Fax: (817) 377-3485

T. John Ward, Jr.  
Texas State Bar No. 00794818  
J. Wesley Hill  
Texas State Bar No. 24032294  
Claire Abernathy Henry  
Texas State Bar No. 24053063  
WARD & SMITH LAW FIRM  
P.O. Box 1231  
1127 Judson Rd. Ste. 220  
Longview, Texas 75606-1231  
(903) 757-6400  
(903) 757-2323 (fax)  
jw@jwfirm.com  
wh@wsfirm.com  
claire@wsfirm.com

**ATTORNEYS FOR PLAINTIFF  
CELLULAR COMMUNICATIONS  
EQUIPMENT LLC**